films owned by them in which the defendant had starred, the usual presumption, that a contract in restraint of trade is unenforceable, was applied. Restrictive agreements accompanying the promisor's entry into an apprenticeship arrangement, or made upon his going into the service of the promisee, are regarded with disfavor by the courts. They are upheld only when they are not unduly oppressive, when they are of a kind clearly necessary to enable the promisor to dispose of his labor to the best advantage, and when they do not interfere with the public interest. This means that a restriction to be upheld in such a case must, on the one hand, be no broader than is reasonably necessary to protect the legitimate interests of the promisee, and, on the other hand, must be one which does not unduly interfere with the interest which the public has in having every man self-supporting, and in getting the benefit of his labor, skill and talent. An agreement which seeks to protect the employer's business and good will by preventing the employee from using trade secrets and other information gained in the course of his employment to the disadvantage of the employer, if reasonably adapted to that end, is enforceable. A promise to refrain, for a limited time, from working for a rival, or from setting up a competing business, may be of this kind. *Rousillon* v. *Rousillon* (1880), L. R. 14, Ch. Div. 351; *Carter* v. *Alling*, 43 Fed. 208; *Harrison* v. *Glucose Sugar Refining Co.*, 116 Fed. 304. But competition which does not involve the use of information and good will so gained cannot be restricted in this way. *Samuel Stores Inc.* v. *Abrams* (Conn., 1919), 108 Atl. 541; *Herbert Morris, Ltd.*, v. *Saxelby*, [1916] 1 A. C. 688. Neither can the employee be restrained from exercising personal skill and ability acquired as a result of his employment. *Herbert Morris, Ltd.*, v. *Saxelby*, [1916] 1 A. C. 688. See also the following cases in which the restriction was held to be unenforceable because broader than necessary to protect the employer's interests: *Herreshoff* v. *Boutineau*, 17 R. I. 3; *Kinney* v. *Scarborough Co.* (Ga., 1912), 74 S. E. 772; *Mason* v. *Provident Clothing and Supply Co.*, [1913], A. C. 724.

CONTRACTS—IMPOSSIBILITY—EMPLOYEE'S RIGHT TO SALARY WHEN SCHOOL IS CLOSED ON ACCOUNT OF AN EPIDEMIC.—The plaintiff, who was employed by the defendant, a school district, to transport pupils to and from school, brought an action to recover salary for a period of four months during which the school had been closed at the order of the state health authorities to prevent the spread of an epidemic of influenza. *Held:* (1) That the school cannot be said to have been closed by operation of law, since the state board of health has no authority, under the statutes in force in the state, to order schools to be closed. This is a matter which rests entirely in the discretion of the local school board. (2) The defendant is liable to the plaintiff for his salary, as the contract has not become impossible of performance. *Crane* v. *School District No. 14 of Tillamook County* (Ore., 1920), 188 Pac. 712.

It is obvious that the contract was not impossible of performance if we assume what the court held, viz., that the closing of the school was a purely voluntary act on defendant's part. There is, however, authority for the propo-

sition that a threatened impossibility, at least where the health or safety of human beings is involved, excuses performance, provided the case is one in which actual impossibility of performance would itself excuse. *Lakeman* v. *Pollard,* 43 Me. 463; *The Kronprinzessin Cecilie,* 244 U. S. 12. See also *Liston* v. *Steamship Carpathian,* [1915] 2 K. B. 42; *Hanford* v. *Conn. Fair Ass'n* (Conn., 1918), 103 Atl. 838. Unless it can be said that the plaintiff's salary was payable as a retainer and not for work done, it would seem to follow that the actual illness of all the pupils would excuse performance by the defendant. In that event, plaintiff would not be entitled to salary because he could not perform the condition precedent upon which his right to salary depends. So where the school was closed by operation of law and there were no pupils to be taught for that reason, the teacher was held not entitled to salary. *School District No.* 16 *of Sherman County* v. *Howard* (Nebr., 1904), 98 N. W. 666. If this argument is sound, then the impossibility threatened in the principal case, on the authorities cited *supra,* would seem to justify the action taken by the defendant and to excuse it from any obligation to the plaintiff. In accord with the principal case, see *Dewey* v. *The Union School District,* 43 Mich. 480; *School District No.* 16 *of Sherman County* v. *Howard, supra* (*semble*). These cases may perhaps be justified on the ground that the contracts of such employees, properly construed, are, after all, retainer contracts, and that the school district has assumed the risk. At any rate, if the teacher, at the request of the school authorities, keeps himself in readiness to teach at all times, he is entitled to salary. *Libby* v. *Inhabitants of Douglas,* 175 Mass. 128.

COVENANTS FOR TITLE—SEISIN—WHAT AMOUNTS TO BREACH.—The grantees of land, being tenants by entirety under a deed with covenant of seisin, entered into a contract for the sale of it; the purchaser from the grantees repudiated the contract and obtained judgment for an advance payment and costs on the ground that the title was not marketable. The defendants notified their grantors of the action, but they refused to defend the suit. In an action by the surviving grantee it was *held* that the grantors were liable for breach of the covenant of seisin. *Hilliker* v. *Rueger* (N. Y., 1920), 126 N. E. Rep. 266.

It is generally held in the United States that the covenant of seisin, *if broken at all,* is broken as soon as made. But the courts are not in accord as to the scope of the covenant, the majority holding as in the principal case that it means lawfully seized in fee simple. A few states hold it to be satisfied by an exclusive possession with claim of fee. *Bearce* v. *Jackson,* 4 Mass. 408; *Montgomery* v. *Reed,* 69 Me. 510; *Scott* v. *Twist,* 4 Nebr. 133; *Watts* v. *Parker,* 27 Ill. 223; *Peters* v. *Bowman,* 98 U. S. 56. See RAWLE, COVENANTS FOR TITLE, 38-65. According to *Backus* v. *McCoy,* 3 Ohio 211, *Stambaugh* v. *Smith,* 23 Oh. St. 588, and *Brooks* v. *Mohl,* 104 Minn. 404, the covenant is satisfied if the grantor is in possession claiming a fee, but that there is a breach when the grantee or those claiming under him is evicted.